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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,866	06/23/2003	Shunpei Yamazaki	07977-266002	6649

26171 7590 06/28/2005  
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P.O. BOX 1022  
MINNEAPOLIS, MN 55440-1022

EXAMINER
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LESPERANCE, JEAN E

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,866	<b>Applicant(s)</b> YAMAZAKI ET AL.	
	<b>Examiner</b> Jean E. Lesperance	<b>Art Unit</b> 2674	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-100 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 65-100 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/23/03</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 65 to 100 are presented for examination.
2. The Information Disclosure Statement filed June 23, 2003 is considered.

### Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 65-100 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-64 of U.S. Patent No.6,583,776. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claimed invention is somewhat a different recitation of "776 Patent. For instance, in claims 65, 74, 83 and 92, of the present invention and claims 1-4, 7 and 8 of the "776 Patent, the application claims:

Regarding claims 65, 74, 83 and 92, the present invention claims selecting a gate signal line connected to switching TFTs by inputting a selection signal from a gate

signal line driving circuit and inputting the video signal inputted to each of the source signal lines to a gate electrode of each of the current controlling TFTs through each of the switching TFTs, wherein an emission brightness of each EL elements is controlled by the video signal inputted to the gate electrode of each of EL elements is controlled by the video signal inputted to the gate electrode of each of the current controlling TFTs but "776 Patent teaches a plurality of pixels, said plurality of pixels including a plurality of switching TFTs, a plurality of current controlling TFTs and a plurality of EL elements.

Thus, it would have been obvious to a person of ordinary skill in the art to know that "selecting a gate signal line connected to switching TFTs by inputting a selection signal from a gate signal line driving circuit and inputting the video signal inputted to each of the source signal lines to a gate electrode of each of the current controlling TFTs through each of the switching TFTs, wherein an emission brightness of each EL elements is controlled by the video signal inputted to the gate electrode of each of EL elements is controlled by the video signal inputted to the gate electrode of each of the current controlling TFTs" represent a plurality of pixels.

Regarding all the dependent claims, all of the limitations can be found in the patented claims.

### **Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Lesperance whose telephone number is (571) 272-7692. The examiner can normally be reached on from Monday to Friday between

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10:00AM and 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard, can be reached on (571) 272-7603.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive, Arlington, VA, Sixth Floor (Receptionist).

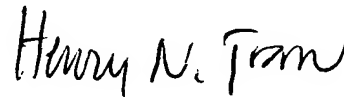
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Jean Lesperance



Date 6/23/2005

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**HENRY N. TRAN  
PRIMARY EXAMINER**